

BEFORE
THE PUBLIC SERVICE COMMISSION
OF SOUTH CAROLINA

DOCKET NO. 2009-____-W

IN RE: Petition of the Office of Regulatory)	PETITION OF THE OFFICE OF
Staff for a Declaratory Order)	REGULATORY STAFF FOR AN
Against Charles Hamilton and/or)	ORDER REQUIRING CERTIFICATION
Hamilton-Haynes Water System)	AS A WATER UTILITY AND THE
Requiring Certification as a Water)	POSTING OF A PERFORMANCE BOND
Utility and the Posting of a)	
Performance Bond)	
_____)	

The Office of Regulatory Staff, by filing this petition, would respectfully show and request of the Commission:

1. That the Public Service Commission of South Carolina (“the Commission”) is a state agency constituted pursuant to the laws of the State of South Carolina with its business offices located in Columbia, South Carolina and that the Commission is responsible for the regulation of water and wastewater utilities operating for compensation as set forth in S.C. Code Ann. § 58-5-10 et seq. (Supp. 2008), and that the Office of Regulatory Staff (“ORS”) is a state agency charged with the duty to represent the public interest pursuant to S.C. Code Ann. § 58-4-10 (Supp. 2008), et seq. and to make inspections, audits, and examinations of public utilities regarding matters within the jurisdiction of the Commission.

2. Upon information and belief that Hamilton-Haynes Water System and/or Charles Hamilton with the address of 255 North Highway 52, Suite 1, Moncks Corner, SC 29461 (“Hamilton-Haynes,” “Hamilton” or “Respondent”) is the owner/operator of two public wells

and water distribution system providing water service to approximately 70 residential customers in Moncks Corner, South Carolina.

3. That Respondent, as owner/operator of a public water system, supplies water and distribution service to several residents in Moncks Corner, South Carolina (herein “customers”) for compensation, and the rates charged for water supply and distribution service have been set by Respondent and have not been established, approved, or reviewed by the Commission.

4. That the water supply and distribution system operated by Respondent meets the definition of “public utility” as that term is defined in S.C. Code Ann. § 58-5-10(4) in that it is a “corporation or person furnishing or supplying in any manner gas, heat (other than by means of electricity), water, sewerage collection, sewerage disposal to the public, or any portion thereof, for compensation.”

5. That Respondent and the water supply and distribution system which it operates are not certificated by the Commission as a public utility lawfully authorized to provide, supply, or furnish water service for compensation in the State of South Carolina. As an uncertificated water company, Respondent has never filed any of the documents, bonds, reports, or other instruments required of such companies under South Carolina law with either the ORS or the Commission.

6. Upon information and belief, that the water supply and distribution system serving the customers in Moncks Corner has been in operation since approximately 1960. The system was approved by DHEC to serve 104 taps. Currently, the system is providing 70 taps to residential customers in Moncks Corner, South Carolina. The Respondent did not seek the Commission’s approval for the schedule of rates and fees charged to the customers.

7. That the Commission has jurisdiction over Respondent's water supply and distribution system pursuant to S.C. Code Ann. § 58-5-10. Further, although Respondent has not consented to jurisdiction of the Commission, the Commission has the right, before the granting of authority or consent to any water or sewer utility regulated by the Commission for the operation, maintenance, or acquisition of any facility or system, to prescribe that the utility file with the Commission a bond with sufficient surety payable to the Commission and conditioned upon the provision by the utility of adequate and sufficient service. S.C. Code Ann. § 58-5-720 (Supp. 2008). If the Commission finds that Respondent is operating the water supply and distribution system serving the customers in Moncks Corner, South Carolina for compensation it is then, by statutory definition, a "public utility" and subject to the jurisdiction of this Commission. S.C. Code Ann. § 58-5-10(4) (Supp. 2008).

8. That, therefore, Respondent, or the Hamilton-Haynes water supply and distribution system owned and operated by Respondent, must apply to the Commission for a Certificate of Public Convenience and Necessity to operate this system. Further, Respondent must have the rates and fees charged to the customers of these systems approved by the Commission under the authority granted to the Commission under S.C. Code Ann. § 58-5-210 (1976). Additionally, Respondent must provide to the Commission a performance bond under the provisions of S.C. Code Ann. § 58-5-720 and such other information and reports as the Commission deems necessary.

WHEREFORE, the ORS prays that the Commission:

1. Inquire into the ownership of the distribution system supplying water to customers in Moncks Corner, South Carolina.

2. If the water distribution system supplying and providing water to customers in Moncks Corner, South Carolina is found to be a public utility under S.C. Code Ann. § 58-5-10 *et seq.*, order Respondent or such other proper person or entity to:

(a) apply pursuant to 26 S.C. Code Regs. 103-704 (Supp. 2008) for a Certificate of Public Convenience and Necessity to operate the facilities,

(b) provide a bond pursuant to S.C. Code Ann. § 58-5-720 and that such bond be in an amount as required under 26 S.C. Code Regs. 103-712.3.1 (Supp. 2008), and

(c) seek approval of rates to be charged for the provision of the utility services.

3. Order Respondent or such other identified and properly certificated owner/operator of Hamilton-Haynes water supply and distribution system to comply with Commission rules and regulations and file information identifying the Authorized Utility Representative of that company and to file annual reports with the Commission as mandated by 26 S.C. Code Regs. 103-712.1 (Supp. 2008).

4. Order Respondent or such other identified and properly certificated owner/operator of the Hamilton-Haynes water supply and distribution system to cease charging Respondent's current rates and fees.

5. Order Respondent or such other identified and properly certificated owner/operator of the Hamilton-Haynes water supply and distribution system to file an application for a rate case seeking approval of rates pursuant to 26 S.C. Code Regs. 103-703 (Supp. 2008) or upon Respondent filing an establishment case to establish a new utility.

6. For any additional action or relief which the Commission may deem necessary.

Shealy Boland Reibold
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November 18, 2009
Columbia, South Carolina

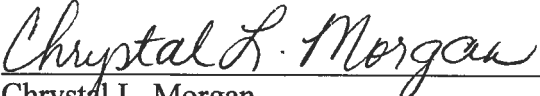
BEFORE
THE PUBLIC SERVICE COMMISSION OF
SOUTH CAROLINA

DOCKET NO. 2009-____-W

IN RE:)	
Petition of the Office of Regulatory Staff for a)	CERTIFICATE OF
Declaratory Order Against Charles Hamilton)	SERVICE
and/or Hamilton-Haynes Water Sytem Requiring)	
Certification as a Water Utility and the Posting)	
of a Performance Bond)	

This is to certify that I, Chrystal L. Morgan, an employee with the Office of Regulatory Staff, have this date served one (1) copy of the **PETITION** in the above-referenced matter to the person(s) named below by causing said copy to be deposited in the United States Postal Service, first class postage prepaid and affixed thereto, and addressed as shown below:

Charles Hamilton and/or Hamilton-Haynes Water System
255 North Highway 52, Suite 1
Moncks Corner, SC 29461


Chrystal L. Morgan

November 18, 2009
Columbia, South Carolina